CCRB INVESTIGATIVE RECOMMENDATION

Investigator:	Team: Squad #1			CCRB Case #:		Force	V	Discourt	. 🗆	U.S.
			‡ 14	201703417		Abuse		O.L.		Injury
Incident Date(s)		Locatio	n of Incident:	•		Precinct	:	S.O.L	Exp	oires:
Wed, 05/03/2017 1:00 AM						120		11/0	03/20)18
Date/Time CV Reported		CV Rep	oorted At:	How CV Reported	l:	Date/Time F	Receive	d at CCRB	}	
Wed, 05/03/2017 1:00 AM		Precinc	t	In-person		Wed, 05/03/	2017	9:20 AM		
Complainant/Victim	Type		Home Add	ress						
1.	Comp/V	ictim								
2.	Victim									
3.	Victim									
Witness(es)			Home Add	ress						
1.										
Subject Officer(s)	Shield		TaxID	Command						
1. POM Daniel Nunez	18750			SRG						
Witness Officer(s)	Shield N	Ю	Tax No	Cmd Name						
Officer(s) Alle		on				Inves	tigato	r Recomi	nend	lation

Officer(s)	Allegation	Investigator Recommendation
J. POM Daniel Nunez	Abuse of Authority: Police Officer Daniel Nunez threatened to arrest	J. Unsubstantiated
K . POM Daniel Nunez	Abuse of Authority: Police Officer Daniel Nunez threatened to arrest	K . Unsubstantiated
L . POM Daniel Nunez	Abuse of Authority: Police Officer Daniel Nunez threatened to arrest	L. Unsubstantiated
O . POM Daniel Nunez	Other: Police Officer Daniel Nunez failed to prepare a Stop, Question and Frisk Report Worksheet as required by Patrol Guide Procedure 212-11.	O . Other Misconduct

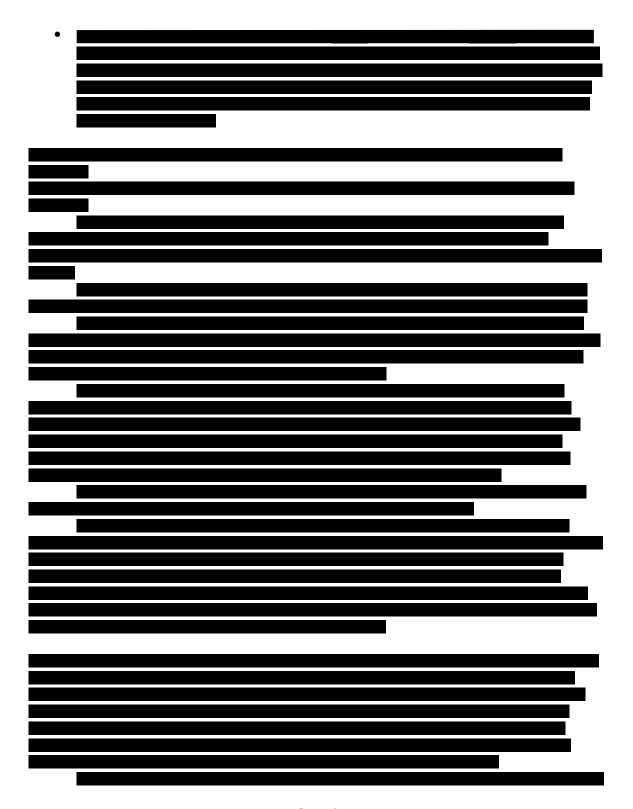
Case Summary

On May 3, 2017, filed this complaint at the 121st Precinct stationhouse. It
was received at the CCRB on May 3, 2017.
On May 3, 2017, at approximately 1:00 a.m., Ms. was traveling in the front
passenger seat of a 2017 Chevy Suburban, rented to her mother, who was not present, and driven
by her cousin, Mr. sat in the rear driver's seat.
Mr. parked in front of a bus stop outside of the state of
Within seconds, an unmarked black sedan containing Det.
and PO Daniel Nunez, all of the Strategic Response Group, pulled up behind them. PO
and PO of the 120 th Precinct's Anti-Crime team arrived moments later.
Mr. exited the rental vehicle. Det. and PO Nunez allegedly yelled,
"Get the fuck back in the car!" Mr. asked why. Det.
allegedly velled. "Shut the fuck up! Get the fuck in the car!"
allegedly yelled, "Shut the fuck up! Get the fuck in the car!" Mr. complied. Det. approached the driver's side with Det. behind
him, and PO Nunez approached the passenger's side. Mr. handed his license to Det.
Det. and PO Nunez ordered Mr. and Ms. to exit the
rental vehicle. Ms. complied. Mr. initially asked why and refused to comply,
but eventually did so unassisted.
PO Nunez allegedly asked Ms. if she had anything illegal on her
Ms. said no. PO Nunez allegedly frisked and searched Ms.
Det. PO Nunez PO Nunez
allegedly frisked Ms
allegedly frisked Ms. Ms. Mr. and Ms. stood at the rear of the rental vehicle while PO Nunez searched it Det. requested the rental paperwork for the
PO Nunez coerched it
vehicle, but Ms. did not have the paperwork with her. Det. allegedly told her,
"You're going to jail" PO Nunez allegedly told Mr. Ms. and
Ms. that they could all go to jail (Allegation J, Allegation K, Allegation L).
Ms. Mr. Mr. and Ms. were ultimately permitted to return to the
rental vehicle and leave the location. Mr. informed the officers that he would not return
to the rental vehicle, and instead was going to go inside a nearby building. An unidentified officer
allegedly told Mr. "Shut the fuck up. Get back in the car"
No arrests resulted from this incident. PO Nunez issued a summons to Mr.
no standing in a bus zone (Board Review 01). The officers then left the location.
The investigation determined that Det. and PO Nunez failed to prepare Stop,
Question and Frisk Report Worksheets regarding this incident Allegation O). There is no video evidence in this case.
There is no video evidence in this case.
Mediation, Civil and Criminal Histories
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Civilian and Officer CCRB Histories
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• PO Nunez has been a member-of-the-service for 11 years and has had seven additional CCRB complaints filed against him involving 30 allegations, five of which were substantiated. In CCRB case #200610674, stop and search allegations were each substantiated. The CCRB served PO Nunez with charges and he pled guilty and lost two vacation days. In CCRB case #201213751, stop and frisk allegations were each substantiated. The CCRB recommended command discipline A, and the NYPD concurred. In CCRB case #201408513, an entry and search allegation was substantiated. The CCRB recommended formalized training, and the NYPD concurred.
Potential Issues
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Findings and Recommendations
Explanation of Subject Officer Identification
Allegations not pleaded
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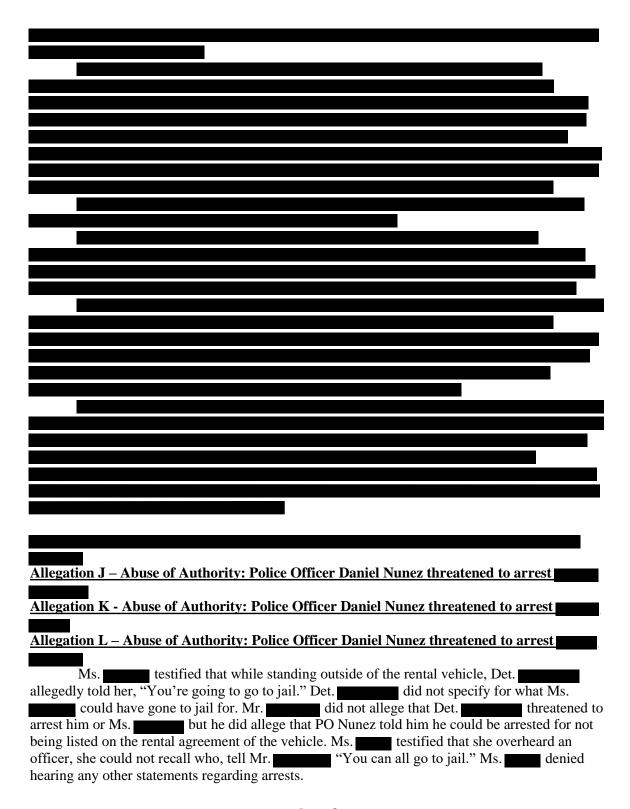
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Ms. (Board Review 21), a friend of Ms. and Mr. who resided
at testified that she went outside around this time (after she heard Ms.
yelling that she had been groped) and observed Ms. Mr. and Ms.
standing outside of their vehicle with approximately 10 officers. Ms. watched the
incident from the sidewalk, but her view was partially obstructed. Ms. did not recall
hearing any threats regarding anyone being arrested.
Det. denied that any officer informed any civilian that they could be arrested
during this incident. Det. and Det. each testified that at some point during the
incident, the rental vehicle's license plate was ran and determined not to be stolen. PO Nunez
recalled that Mr. either did not have a license or was not listed on the vehicle's rental
agreement, but he could not recall any more details concerning this aspect of the incident. PO
Nunez denied that he told any civilian that they could be arrested, and he denied hearing any
officer do so. PO PO and PO and and Det. Po each denied hearing any officer threaten to
arrest any civilian.
New York State Penal Law, Section 165.05 (Board Review 22) states that a person is
guilty of unauthorized use of a vehicle when without the consent of the owner, he takes, operates,
exercises control over, rides in, or otherwise uses a vehicle. It is incumbent on an officer to run a
license plate check to determine whether a demand for the return of the automobile in the form of
a stolen car report has been made, and in the absence of such a check, the officer does not have
probable cause to arrest the person for unauthorized use of a vehicle. <u>People v. Rice</u> , 65 A.D.2d
132 (Board Review 23).
Absent a positive hit for a stolen vehicle report, Det.
have had probable cause to arrest the civilians for unlicensed operation of a vehicle and therefore
would not have been justified in threatening to do so. However, given the conflicting civilian and
officer statements regarding this aspect of the incident, the investigation was unable to determine
whether Det. threatened to arrest Ms. and whether PO Nunez threatened to
arrest Mr. Ms. and Ms. It is therefore recommended that
- Allegation L be closed as unsubstantiated.
Allered and Ordered Mirror deeds Delies Officers Desiried Names for the desired and officers of the desired and of
Allegation O – Other Misconduct: Police Officer Daniel Nunez failed to prepare Stop.
Question and Frisk Report Worksheet as required by Patrol Guide Procedure 212-11.
Det. acknowledged frisking Mr. and as discussed within Allegation
F, the investigation determined that PO Nunez frisked Ms. A Stop, Question and Frisk
Report Worksheet was prepared for Ms. by PO Nunez (Board Review 24), but the 120 th
Precinct has no records of any Stop, Question and Frisk Report Worksheets prepared for Mr.
or Ms. (Board Review 25).
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required to prepare a Stop, Question and Frisk Report Worksheet for each civilian they stop, question and/or frisked. Given that Det. and PO Nunez failed adhere to this guideline of the Patrol Guide, it is recommended that they be cited for **other misconduct**. Squad: #14 Investigator: Signature Print Date Squad Leader: _ Title/Signature Print Date Reviewer: Title/Signature Print Date

According to NYPD Patrol Guide, Procedure 212-11 (Board Review 26), an officer is

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